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 RUBEN JUAREZ and ISELA  
 HERNANDEZ

UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA

RUBEN JUAREZ, an individual and  
 ISELA HERNANDEZ, an individual

Plaintiffs,

v.

PRECISION VALVE &  
 AUTOMATION, Inc., a corporation  
 and DOES 1-20

Defendants.

Case No. 2:17-cv-03342

[Los Angeles County Superior Court  
 Case No. BC650229]

**FIRST AMENDED COMPLAINT  
 FOR DAMAGES**

**GENERAL NEGLIGENCE**

**STRICT LIABILITY**

**FAILURE TO WARN  
 LOSS OF CONSORTIUM**

**JURY TRIAL DEMANDED**

Plaintiffs RUBEN JUAREZ and ISELA HERNANDEZ hereby file this

FIRST AMENDED COMPLAINT

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1 Complaint for Relief and Demand for Jury Trial against Defendant PRECISION  
2 VALVE & AUTOMATION, INC., (a New York Corporation) and alleges as  
3 follows:

4 **PARTIES AND JURISDICTION**

5 1. The Plaintiffs RUBEN JUAREZ and ISELA HERNANDEZ reside in  
6 Granada Hills, CA 91344, in the County of Los Angeles within the State of  
7 California. During all relevant time, Plaintiff ISELA HERNANDEZ is Plaintiff's  
8 RUBEN JUAREZ's lawful wife.

9 2. During all relevant time, the alleged injuries occurred in the County of  
10 Los Angeles within the State of California.

11 3. Defendant PRECISION VALVE & AUTOMATION, INC. ("PVA") is  
12 a New York Corporation and its principal place of business is 1 Mustang Drive,  
13 Cohoes, New York, 12047.

14 4. Defendant PVA designed, manufactured, and sold PVA 350, a  
15 benchtop dispensing / coating system that sprays chemicals to circuit boards.

16 5. Before 2012, PVA designed, manufactured, and sold at least a PVA  
17 350 to one of Space Exploration Technologies Corp. ("Space X") California  
18 locations in Hawthorne, CA, a County of Los Angeles.

19 6. On information and belief, before the sales of the PVA 350, PVA had  
20 samples of the chemicals to be sprayed by the PVA 350. As a result, PVA knew or  
21 should have known the toxicity of the chemicals to be used by the PVA 350.

22 7. Plaintiffs are unaware of the true names and capacities of those  
23 Defendants sued herein as DOES 1-20, inclusive, and therefore sues said  
24 Defendants by such fictitious names. Plaintiffs will amend this Complaint to allege  
25 the true names and capacities of said Defendants, when the same have been  
26 ascertained, together with such other charging allegations as may be appropriate.

27 8. Plaintiffs are informed and believe, and thereupon allege, that each  
28

1 Defendant designated as a DOE is responsible, negligently or in some other  
 2 actionable manner, for the events and happenings hereafter referred to, and caused  
 3 injuries and damages proximately thereby to plaintiffs, as hereinafter alleged, either  
 4 through said defendants' own negligent conduct, or through the conduct of their  
 5 agents, servants or employees, or in some other manner as yet unknown.

6 9. Plaintiffs are informed and believe, and thereupon allege, that at all  
 7 times mentioned herein, defendants and each of them, were the agents, servants,  
 8 employees, independent contractors and/or joint venturers of their co-defendants  
 9 and were, as such, acting within the scope, course and authority of said agency,  
 10 employment, contract, and/or joint venture, or acting in the concert, and that each  
 11 and every defendant, as aforesaid, when acting as a principal, was negligent in the  
 12 selection, hiring, training, control, and supervision of each and every other  
 13 defendant as an agent, servant, employee, independent contractor and/or joint  
 14 venture.

15 10. At some or all relevant herein, each Defendant was the agent of each  
 16 other defendant, each Defendant was acting within the court and scope of that  
 17 agency, each Defendant ratified the conduct of the other Defendants with actual  
 18 and/or constructive knowledge of such conduct, and each Defendant was subject to  
 19 and under the supervision of the other defendant.

#### 20 **GENERAL ALLEGATIONS**

21 11. PVA 350 is a benchtop dispensing / coating system that sprays  
 22 chemicals to circuit boards, manufactured, designed, supplied, installed, inspected,  
 23 repaired, and sold by Defendant PVA. Once programmed, PVA can automatically  
 24 spray chemicals without an attendant constantly on duty.

25 12. PVA 350 does not have an automatic shutoff and does not sound an  
 26 alarm when the ventilation / exhaust is not in operation. In other words, PVA 350  
 27 is designed to continue to spray chemicals even when the ventilation / exhaust is  
 28

1 not in operation. Furthermore, there is no warning anywhere about this.

2 13. On information and belief, to add the automatic shutoff, PVA only  
3 needs to include an airflow sensor or something similar.

4 14. On January 2012, Plaintiff RUBEN JUAREZ started working for  
5 Space X as a programmer for a PVA 350 that sprayed chemicals to circuit boards at  
6 Space X's Hawthorne, CA location. Plaintiff RUBEN JUAREZ worked there with  
7 the PVA 350 until May or June of 2014.

8 15. During Plaintiff RUBEN JUAREZ's time at Space X, Plaintiff  
9 RUBEN JUAREZ was in charge of programming the PVA 350 to spray Arathane®  
10 5750A, Arathane® 5750B, Arathane® 5750A/B, Humiseal®, Humiseal® thinner.

11 16. PVA trained Plaintiff RUBNE JUAREZ that in order to verify whether  
12 the equipment correctly sprayed the chemicals, Plaintiff RUBNE JUAREZ had to  
13 stick his head into the spraying chamber of the PVA 350 to verify. He had to do  
14 this because the spray is usually transparent and is very fine with tiny thickness and  
15 therefore, a naked eye cannot identify whether or not certain part of the circuit  
16 board has been sprayed or the thickness of the spray. The only way to verify this is  
17 to use a black light and poke his head inside the PVA 350 to check. He could not  
18 take the circuit board out of the PVA 350 to verify this because it is wet and thus,  
19 any handling of the board would destroy the accuracy of the spray.

20 17. During Plaintiff RUBEN JUAREZ's time at Space X from 2012 to  
21 2014, he had confirmation that the ventilation system was not in operation many  
22 times: he asked his co-worker why it always smelt so bad in the room, the co-  
23 worker told Mr. Juarez that he just realized that he had forgotten to turn on the  
24 ventilation system. Plaintiff RUBEN JUAREZ also noticed that chemicals often  
25 leaked out of the PVA 350 from the bottom.

26 18. When the exhaust fan was not in operation, Plaintiff RUBEN JUAREZ  
27 unknowingly breathed in the toxic chemicals during the verification process  
28

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1 because his head was directly emerged inside the PVA 350 with the toxic chemicals  
2 floating inside it.

3 19. In addition, when the exhaust fan was not in operation, the toxic  
4 chemicals leaked out of the PVA 350. Plaintiff RUBEN JUAREZ on average spent  
5 about 60% of his days standing right next to the PVA 350.

6 20.

7 21. The MSDS of Arathane® 5750A shows that it contains chemicals  
8 toluene, diphenylmethane 4, 4'-diisocyanate, MDI Homopolymer,  
9 methylenediphenyldiisocyanate ("MDI"), and triethyl phosphate. It further  
10 provides that the chronic health effects from the exposure to the chemicals "can  
11 cause target organ damage" that include "upper respiratory tract," "the nervous  
12 system . . . brain, central nervous system (CNS)."

13 22. The MSDS of Arathane® 5750B shows that it contains chemicals  
14 toluene, hydroxylated polybutadiene, methyl ethyl ketone, 1, 1'-  
15 phenyliminodipropan-2-ol. It further provides that the chronic health effects of  
16 exposure to the chemicals "can cause target organ damage" including "the nervous  
17 system . . . brain, gastrointestinal tract, central nervous system (CNS)." Over-  
18 exposure will aggravate the medical conditions.

19 23. The MSDS of Humiseal® shows that it contains chemicals toluene,  
20 acetone, xylene, ethyl benzene, methyl ethyl ketone, dimethyl ether, heptane, ethyl  
21 3 ethoxy propionate, and oil mod. Polyurethane. It further provides that inhalation  
22 of the chemicals can "[c]ause irritation of nasal passages and throat" and "stupor  
23 (central nervous system depression)." "Significant exposure to these chemicals  
24 may adversely affect people with chronic disease of the respiratory system" and  
25 "central nervous system." And an inhalation may "cause mild nausea/dizziness."

26 24. The MSDS of Humiseal® thinner 521 EU that it contains chemicals  
27 xylene. It further provides "[s]ignificant exposure to these chemicals may  
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**Moved down [1]:** During the entire time, none of the treating physicians suspected that chemical exposures could have been the cause of his symptoms, due to the fact that none knew that Plaintiff RUBEN JUAREZ was working with chemicals. His medical records list his employment as "computer programmer."

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adversely affect people with chronic disease of the respiratory system [and] central nervous system.” Inhalation may cause nausea/dizziness.

25. The scientific community has generally accepted the effects of prolonged exposure to these chemicals. For example, Center of Disease Control’s (“CDC”) publishes that “[s]ymptoms of toluene poisoning include CNS effects (headache, dizziness, ataxia, drowsiness, euphoria . . . respiratory depression, nausea . . . electrolyte imbalances).” United States Department of Labor Occupational Safety and Health Administration notes that symptoms of toluene exposure include “weakness, exhaustion, confusion, euphoria, dizziness, headache . . . anxiety, muscle fatigue, insomnia” and that “long term and repeated workplace exposure to toluene affect the central nervous system.” Environmental Protection Agency (“EPA”) also notes that chronic effect of toluene exposure can cause “CNS depression,” leading to drowsiness, headache, dizziness, and neurobehavioral effects.

26. Similarly, symptoms from exposure to MDI include “headache, sore throat . . . chest tightness.” A study of 203 school children who were exposed to MDI shows that 70.9% reported headache, and 62.6% reported nausea. The effects of chronic exposure of MDI include “headache, nausea and muscle aches. “There are also case reports of neurological effects” of “headaches, forgetfulness, mood alterations, irritability, and difficulty concentrating.” “[T]here was evidence of emotional distress in the form of depression, anxiety, and altered mentation.”

27. On information and belief, before a benchtop dispensing system is designed and manufactured by PVA, Space X sends samples of its toxic chemicals to PVA for customization. So, PVA knew or should have known the exact type of chemicals used by its PVA 350 and the dangerous health consequences from exposure to these chemicals if the exhaust/ventilation is not in operation.

28. Plaintiff RUBEN JUAREZ, a previously healthy man, who rarely went

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1 to see doctors, after six months into the job, on June 27, 2012, went to urgent care  
 2 for palpitations and presyncope (lightheadedness, muscular weakness, blurred  
 3 vision, and feeling faint). He also complained about shortness of breath. All of  
 4 these symptoms are well documented as chronic exposure to these toxic chemicals  
 5 by the scientific community.

6 29. From June of 2012 to present, Plaintiff RUBEN JUAREZ has had over  
 7 9 hospitalizations for symptoms associated with toluene, MDI, and other toxic  
 8 chemical exposure. In addition, he has had at least 21 visits to urgent care  
 9 /emergency room for symptoms associated with the toxic chemical exposure.

10 30. His current medications include Oxycodone, Norco, Topamax,  
 11 Depakote, and Ondansetron for migraine, Wellbutrin and Xanax for depression,  
 12 Flonase and Allegra-D for respiratory issues, Deltasone for chest tightness, and  
 13 Protonix for stomach problems causing from the drug cocktail.

14 31. His current conditions include severe headache, nausea, short of  
 15 breath, dizziness, memory loss, out of balance, respiratory issues, and stomach pain  
 16 from the medications. He also has suicidal thoughts once a week: sometimes his  
 17 migraines are so severe that he hopes that he just does not wake up the next day.  
 18 He also has sleeping problems.

19 32. Due to the continuing medical treatment, hospitalization, and urgent  
 20 care visits, Plaintiff has not worked since May or June of 2014.

21 33. Plaintiff RUBEN JUAREZ lives with his 12-year-old daughter and his  
 22 wife Plaintiff ISELA HERNANDEZ.

23 34. During the entire time, none of the treating physicians suspected that  
 24 chemical exposures could have been the cause of his symptoms, due to the fact that  
 25 none knew that Plaintiff RUBEN JUAREZ was working with chemicals. His  
 26 medical records list his employment as "computer programmer."

27 35. Up until May of 2015, Plaintiff RUBEN JUAREZ thought that his  
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1 injury was caused by lead solder wire and cleaning solution to clean electronic parts  
 2 operated by other Space X employees near Plaintiff's work station. The solder wire  
 3 and the cleaning solution had nothing to do with the PVA 350—they were not even  
 4 housed in the same location as the PVA 350. It was not until May of 2015, when  
 5 Plaintiff Juarez saw the MSDS sheets from Space X that he first saw that the solder  
 6 wire was actually lead-free and the detergent was only alcohol and that he first  
 7 suspected that the PVA 350 might have caused his injuries. Therefore, despite  
 8 diligent investigation of the circumstances of the injury, Plaintiff RUBEN JUAREZ  
 9 could not have reasonably discovered facts supporting the cause of action against  
 10 PVA within the applicable statute of limitations period.

# **FIRST CAUSE OF ACTION**

## **NEGLIGENCE**

### **(Against all Defendants)**

14 36. Plaintiffs refer to paragraph 1-35 above and incorporate them into this  
 15 cause of action as though fully set forth herein.

16 37. Defendants designed, manufactured, supplied, installed, inspected, and  
 17 repaired the PVA 350.

18 38. First, Defendants were negligent in designing, manufacturing,  
 19 supplying, installing, inspecting, and repairing the PVA 350. In particular,  
 20 Defendants failed to use the amount of care in designing, manufacturing,  
 21 inspecting, installing, and repairing the PVA 350 that a reasonably careful designer,  
 22 manufacturer, supplier, installer, repairer would use in similar circumstances to  
 23 avoid exposing Plaintiff RUBEN JUAREZ, a programmer of the PVA 350, to a  
 24 foreseeable risk of harm. Furthermore, Defendants' design violated Cal-OSHA,  
 25 which requires that "When spray is automatically applied without an attendant  
 26 constantly on duty, the operating control of spray apparatus shall be so arranged  
 27 that spray cannot be applied unless exhaust fans are in operation." (Title 8 of Cal.  
 28



1 Code of Regulations, § 5153.)

2 39. Second, Defendants knew or reasonably should have known that the  
3 PVA 350 was dangerous or was likely to be dangerous when used or misused in a  
4 reasonably foreseeable manner. Defendants failed to adequately warn of the  
5 danger.

6 40. Third, Defendants became aware of this defect after the PVA 350 was  
7 sold and Defendants failed to recall/retrofit or warn of the danger of the PVA 350.  
8 A reasonable manufacturer/distributor/seller under the same or similar  
9 circumstances would have recalled, retrofitted the product.

10 41. Plaintiffs were harmed.

11 42. Defendants' negligence was a substantial factor in causing Plaintiffs'  
12 harm.

13 **SECOND CAUSE OF ACTION**  
14 **STRICT PRODUCT LIABILITY**  
15 **(Against all Defendants)**

16 43. Plaintiffs refer to paragraph 1-42 above and incorporate them into this  
17 cause of action as though fully set forth herein.

18 44. The PVA 350 contains a design defect that it does not stop spraying  
19 toxic chemicals or sound any alarm when the ventilation / exhaust is not in  
20 operation. It continues to spray toxic chemicals even when the ventilation / exhaust  
21 is not in operation without sounding any alarm about it. It also requires the  
22 operator to put his head into the machine to check the spray.

23 45. The PVA 350 also did not have warning of the potential safety hazard  
24 when the ventilation / exhaust is not in operation.

25 46. The PVA 350 did not perform as safely as an ordinary consumer  
26 would have expected it to perform when used or misused in an intended or  
27 reasonably foreseeable way.  
28

1 47. Plaintiffs were harmed.

2 48. The PVA's failure to perform safely was a substantial factor in causing  
3 Plaintiffs' harm.

4 **THIRD CAUSE OF ACTION**

5 **LOSS OF CONSORTIUM**

6 **(Against all Defendants)**

7 49. Plaintiffs refer to paragraph 1-49 above and incorporate them into this  
8 cause of action as though fully set forth herein.

9 50. Defendants' wrongful conduct, acts and omissions, were a substantial  
10 factor in causing Plaintiff ISELA HERNANDEZ to sustain loss of love, care,  
11 companionship, comfort, assistance, protection, society, moral support from  
12 Plaintiff RUBEN JUAREZ, in an amount according to proof.

13 **PRAYER**

14 WHEREFORE, Plaintiffs pray for judgment against Defendants, each of  
15 them, as follows:

- 16 1. For general and noneconomic damages according to proof;
  - 17 2. For special and economic damages according to proof;
  - 18 3. For costs of suit;
  - 19 4. For attorneys' fees as allowed by law;
  - 20 5. Pre-judgment interest; and
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6. For such further relief as the Court deems just and proper.

Dated: April 24, 2018 LAW OFFICES OF TERESA LI, PC

/s/ Teresa Li

Teresa Li

Attorneys for Plaintiffs

RUBEN JUAREZ and ISELA  
HERNANDEZ

BALABAN & SPIELBERGER, LLP

DATED: April 24, 2018

/s/ Daniel K. Balaban

Daniel K. Balaban, Esq.,

Attorneys for Plaintiffs

RUBEN JUAREZ and ISELA  
HERNANDEZ

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